

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

**IN RE: INSULIN PRICING LITIGATION**

**THIS DOCUMENT RELATES TO: ALL  
CASES**

**Case No. 2:23-md-03080 (BRM)(RLS)  
MDL No. 3080**

**JUDGE BRIAN R. MARTINOTTI  
JUDGE RUKHSANAH L. SINGH**

**CASE MANAGEMENT ORDER #12**

This matter having come before the Court by way of the June 5, 2024 letter of plaintiffs, the June 12, 2024 response of defendants, the June 20, 2024 letter of plaintiffs, and argument at the August 13, 2024 case management conference in which plaintiffs' counsel (1) requested leave to move to consolidate the *In re Direct Purchaser Insulin Pricing Litig.*, No. 2:20-cv-03426 (the "Direct Purchaser Action") with *Local 837 Health and Welfare Plan v. Eli Lilly and Company*, No. 2:23-cv-20932 (D.N.J.), and *Local 1 No. Health Fund v. Eli Lilly and Co.*, No. 2:23-cv-21160 (the "TPP Class Actions") pursuant to Rule 42(a), (2) requested to replace the existing TPP Class Track with a Class Track that will assert only federal law claims for relief against Defendants ("Class Action Track"), (3) represented that all other TPP Class Track plaintiffs would dismiss their complaints without prejudice or assert federal law claims for relief in the Related Actions (as hereinafter defined), and (4) requested that the Court appoint a leadership structure for the proposed reconstituted Class Action Track [ECF No. 195];

The Court hereby finds and orders as follows:

1. The Court, having reviewed these submissions, and with no objections thereto having been filed, finds that the Direct Purchaser Action and the TPP Class Actions (the "Related

Actions”) should be consolidated under Rule 42(a), as they assert the same operative facts, will assert only federal law claims for relief, and consolidation will promote efficiency and judicial economy. The Court further accepts the Related Actions’ request to rename the TPP Class Track as the Class Action Track. All subsequent filings in the Class Action Track shall be made in Case No. 2:23-cv-20932. Within 45 days of entry of this Order, Plaintiffs in *Sheet Metal Workers Local No. 25 Health and Welfare Fund v. Eli Lilly and Company, et al.*, No. 2:23-cv-14371, *Local 464A UFCW Welfare Services and Benefit Funds individually and on behalf of all other similarly situated v. Eli Lilly and Company, et al.*, No. 2:23-cv-20842, and *Indiana/Kentucky/Ohio Regional Council of Carpenters Welfare Fund, individually and on behalf of all others similarly situated v. Eli Lilly and Company, et al.*, No. 2:23-cv-22305, will dismiss their complaints without prejudice.

2. The duties of Co-Lead Counsel, Executive Committees, and Steering Committees are set forth in CMO #3 (ECF No. 34). The Duties of the Class Action Track leadership are identical in scope and substance to those of the counsel originally appointed for the TPP Class Track in CMO #3.

3. The appointments in this Order are personal. Accordingly, these appointees cannot be substituted by other attorneys, including members of such appointee’s law firm, except with Court approval.

4. The Court establishes the following Class Action Track, in the place of the TPP Class Track:

- a. The Class Action Track shall include the Related Actions and any future putative class actions brought on behalf of plaintiffs asserting class claims against Defendants for relief under federal law, including but not limited to those actions identified on Exhibit A.

b. Pursuant to Federal Rule of Civil Procedure 23(g), the Court appoints the following leadership structure for the Class Action Track:

- i. Michael Roberts of Roberts Law Firm US, PC; Melissa L. Yeates of Kessler Topaz Meltzer & Check, LLP; and James Cecchi of Carella, Byrne, Cecchi, Brody & Agnello, P.C., are appointed as Interim Class Counsel/Co-Lead Counsel for the Class Action Track.
- ii. Dianne Nast of NastLaw LLC; Don Barrett of Barrett Law Group, PA; James R. Dugan, II of Dugan Law Firm; and Joseph M. Vanek of Sperling & Slater LLC, are appointed to the Steering Committee for the Class Action Track.
- iii. Matthew F. Gately of Cohn Lifland Pearlman Herrmann & Knopf LLP is appointed as Liaison Counsel for the Class Action Track.<sup>1</sup>

5. The Class Action Track does not include actions within the Self-Funded Payer Track or the individual consumer action in *In re Insulin Pricing Litigation*, Case No. 17-cv-0699.

6. This Order does not alter the States' or Self-Funded Payor Track's appointments, duties, responsibilities, or any other Tracks' scope.

IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS BY:

/s/ Matthew F. Gately  
Matthew F. Gately  
**COHN LIFLAND PEARLMAN  
HERRMANN & KNOPF LLP**  
Park 80 West-Plaza One  
250 Pehle Avenue  
Saddle Brook, NJ 07663  
Tel.: (201) 845-9600

---

<sup>1</sup> Liaison Counsel for the Class Action Track shall also serve as liaison counsel for the New Jersey Actions.

mfg@njlawfirm.com

Melissa L. Yeates  
**KESSLER TOPAZ  
MELTZER & CHECK, LLP**  
280 King of Prussia Road  
Radnor, PA 19087  
Telephone: (610) 667-7706  
Facsimile: (610) 667-7056  
myeates@ktmc.com

Michael L. Roberts  
**ROBERTS LAW FIRM, P.A.**  
20 Rahling Circle  
Little Rock, Arkansas 72223  
(501) 821-5575  
mikeroberts@robertslawfirm.us

James E. Cecchi  
Donald A. Ecklund  
**CARELLA, BYRNE, CECCHI,  
BRODY & AGNELLO, P.C.**  
5 Becker Farm Road  
Roseland, New Jersey 07068  
Telephone: (973) 994-1700  
jcecchi@carellabyrne.com  
decklund@carellabyrne.com

*Counsel for the DPP Class, TPP Manufacturer  
Class & TPP PBM Class*

/s/ Melissa A Geist  
Melissa A. Geist, Esq.  
Julia Alejandra Lopez, Esq.  
**REED SMITH, LLP**

James F. Hurst, Esq.  
Andrew A. Kassof, Esq.  
Diana M. Watral, Esq.  
Ryan Moorman, Esq.  
Jason A. Feld, Esq.  
**KIRKLAND & ELLIS LLP**

*Counsel for Eli Lilly and Company*

/s/ Neal A. Potischman

Clement J. Farley, Esq.

Brian W. Carroll, Esq.

**MCCARTER & ENGLISH**

Neal A. Potischman, Esq.

Andrew Yaphe, Esq.

James P. Rouhandeh, Esq.

David B. Toscano, Esq.

Patrick W. Blakemore, Esq.

**DAVIS POLK & WARDWELL LLP**

*Counsel for Novo Nordisk Inc.*

/s/ Liza M. Walsh

Liza M. Walsh, Esq.

Katelyn O'Reilly, Esq.

Lauren Ruth Marakoff, Esq.

Selina Ellis, Esq.

**WALSH PIZZI O'REILLY FALANGA LLP**

Michael R. Shumaker, Esq.

Julie E. McEvoy, Esq.

William D. Coglianese, Esq.

Melissa L. Patterson, Esq.

Elizabeth Fassih, Esq.

**JONES DAY**

*Counsel for Sanofi-Aventis U.S. LLC*

/s/ Thomas P. Scrivo

Thomas P. Scrivo, Esq.

Young Yu, Esq.

**O'TOOLE SCRIVO, LLC**

Brian D. Boone

Liz Broadway Brown

Kelley Connolly Barnaby

**ALSTON & BIRD LLP**

*Counsel for OptumRx, Inc.; UnitedHealth Group Incorporated; and OptumInsight, Inc.*

/s/ Jason R. Scherr

Jason R. Scherr, Esq.

Patrick A. Harvey, Esq.

Lindsey T. Levy, Esq.  
Katherine A. Vaky, Esq.  
**MORGAN, LEWIS & BOCKIUS, LLP**

*Counsel for The Cigna Group, Evernorth Health, Inc. (formerly known as Express Scripts Holding Company), Express Scripts, Inc., Express Scripts Administrators, LLC, ESI Mail Pharmacy Service, Inc., Express Scripts Pharmacy, Inc., and Medco Health Solutions, Inc.*

/s/ John D. Tortorella  
Kevin H. Marino, Esq.  
John D. Tortorella, Esq.  
**MARINO, TORTORELLA & BOYLE, P.C.**

Enu Mainigi, Esq.  
Craig Singer, Esq.  
R. Kennon Poteat III, Esq.  
A. Joshua Podoll, Esq.  
Daniel Dockery, Esq.  
Alexander Gazikas, Esq.  
Lori Interlicchio, Esq.  
**WILLIAMS & CONNOLLY LLP**

*Counsel for CVS Health Corporation, CaremarkPCS Health LLC, Caremark LLC, Caremark Rx LLC*

**IT IS SO ORDERED.**



---

HON. BRIAN R. MARTINOTTI  
United States District Judge

Dated: August 28, 2024

**Exhibit A**

<b>Case Name</b>	<b>Case No.</b>
In re Direct Purchaser Insulin Pricing Litigation	2:20-cv-03426
Local 837 Health and Welfare Plan individually and on behalf of all other similarly situated v. Eli Lilly and Company, et al.	2:23-cv-20932
Local No. 1 Health Fund and Plan of Benefits for the Local No. 1 Health Fund individually and on behalf of all other similarly situated v. Eli Lilly and Company, et al.	2:23-cv-21160